

Please add the following new Claim:

64 154. The recombinant DNA construct of Claim ~~20~~¹ wherein said figwort mosaic virus 34 S promoter is selected from the group consisting of a quarter length promoter, a half length promoter, and a full length promoter.

REMARKS

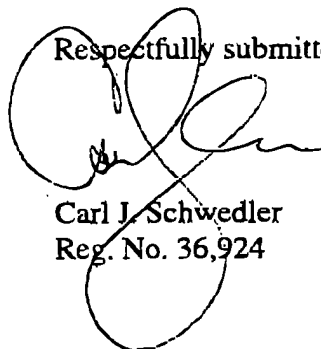
Amendments to the Claims

The above amendments are consistent with those proposed by the Examiner in the Office Action on remand from the Board. Applicants have made the selection of the first proposed amendment to Claim 20, and have added a new claim, Claim 44, to capture the subject matter of the alternative proposed amendment for Claim 20.

CONCLUSION

Applicants submit that the instant application is now in condition for allowance and early notice to this effect is solicited. If in the opinion of the Examiner a telephone conference would expedite prosecution of the instant application, the Examiner is invited to call the undersigned at (530) 792-2265.

Respectfully submitted,



Carl J. Schwedler
Reg. No. 36,924

Calgene LLC
1920 Fifth Street
Davis, CA 95616

(530) 753-6313